

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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ANTHONY JOSEPH BESETT, TIFFANY  
OLIVIA HEGG,

Civil 10-0934 (JRT/LIB)

Plaintiffs,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

WADENA COUNTY, PAUL SAILER,  
JANE ERCKENBRACK, KAREN  
JOHNSON, HUBBARD COUNTY,  
DARYL BESSLER, TONI CARLSTROM,  
RANDE WOODRUM, STELLHER  
HUMAN SERVICES, INC.,  
LARRY ELLINGSON, JANE DOE,  
NATASCHA SMREKAR, WADENA  
COUNTY SHERIFF'S DEPARTMENT,  
WILLIAM CROSS, SHAWN ALVIN  
HEGG, and JENNIFER KATHERINE  
HEGG

Defendants.

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Brian D. Chmielewski, **BRIAN D. CHMIELEWSKI, PC**, 2655 Mallard Drive, Woodbury, MN 55125, for plaintiffs.

James R. Andreen, **ERSTAD & RIEMER, PA**, 8009 34<sup>th</sup> Avenue South, Suite 200, Minneapolis, MN 55425, for defendants Wadena County, Paul Sailer, Jane Erckenbrack, Karen Johnson and William Cross; Scott T. Anderson, **RATWIK ROSZAK & MALONEY, PA**, 730 Second Avenue South, Suite 300, Minneapolis, MN 55402, for defendants Hubbard County, Daryl Bessler, Toni Carlstrom and Rande Woodrum; Robyn K. Johnson and Peter G. Van Bergen, **COUSINEAU MCGUIRE CHARTERED**, 1550 Utica Avenue South, Suite 600, Minneapolis, MN 55416, for defendants Stellher Human Services, Larry Ellingson, Jane Doe sued herein as Monica McConkey and Natascha Smrekar; and Christopher L. Paul, **PAUL LAW OFFICE, PLLC**, 2605 East Cliff Road, Burnsville, MN 55337, for defendants Shawn Alvin Hegg and Jennifer Katherine Hegg.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by  
United States Magistrate Judge Leo I. Brisbois dated December 7, 2010, all the files and

records, and no objections having been filed to said Report and Recommendation.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The Hegg Defendants' motion to dismiss [Docket No. 14] be **GRANTED** in part, and that Plaintiffs' Section 1986, negligent misrepresentation, and malicious prosecution claims be dismissed with prejudice, and that the motion be **DENIED** in all other respects;
2. The Stellher Defendants' motion to dismiss [Docket No. 10] be **GRANTED** in part, as to Plaintiffs' claim for gender discrimination under the MHRA against Smrekar, and their Section 1983 claim against Stellher Human Services; and that it be **DENIED** as to Plaintiffs' Section 1983 claim against Smrekar, Ellingson, and McConkey, and the false reporting claim against Smrekar.

DATED: December 27, 2010  
at Minneapolis, Minnesota

s/John R. Tunheim  
JOHN R. TUNHEIM  
United States District Judge